

1           Q     And, in fact, you started this  
2 e-mail chain, correct?

3           A     Actually, I never got to the  
4 bottom.

5           Q     Okay.

6           A     (Perusing document.)   Yep, looks  
7 like I started this.

8           Q     So, as I understand what we have  
9 in front of us, in exhibit 32, the prior  
10 e-mail we were looking at, Mr. Shell asks you  
11 to run the numbers on this potential three-way  
12 deal. And then in exhibit 33, the e-mail  
13 we're now looking at, you, in turn, turn to  
14 someone on your team and ask her to run the  
15 numbers for you in the first instance,  
16 correct?

17          A     That's correct.

18          Q     And I'm looking at the bottom  
19 e-mail in the chain from you to Ms. Micka.  
20 And, in fact, that's what you asked her to do,  
21 "Can you run the Tennis Channel models with  
22 and without Comcast expanding its

1 subscribers?" Do you see that?

2 A Yes, I do, uh-huh.

3 Q You go on to say, "I'd like an  
4 estimate of how much value the Comcast launch  
5 would create for the Tennis Channel"?

6 A That's right.

7 Q Now, this is, as I understood your  
8 testimony, drawing on the earlier analyses you  
9 had done in terms of considering the equity  
10 deal in 2006, correct?

11 A That's right.

12 Q So at this point, you have  
13 rejected the equity deal, but you're using the  
14 numbers from that deal to consider this  
15 potential three-way deal?

16 A Right. The Cable Division  
17 rejected it, and we're continuing to talk.

18 Q Do you recall ever talking to  
19 Tennis Channel about this deal?

20 A I don't recall talking to Tennis  
21 Channel.

22 Q When you say, "Continue to talk,"

1       you're talking internally, not "Is there  
2       another way we can do this?"

3               A       Well, what I'm referring to is  
4       within this e-mail, we were continuing to  
5       talk.

6               Q       Got it. Now, when you ran your  
7       numbers in 2006 for the equity deal, as I  
8       understood what you did, you received numbers  
9       from Tennis Channel. You looked at them. And  
10      where you thought they were not realistic, you  
11      put in your own numbers?

12              A       Uh-huh.

13              Q       Otherwise you accepted them as  
14      realistic for your purposes of valuing the  
15      equity proposal?

16              A       I think we changed advertising.  
17      We didn't change the other numbers. I won't  
18      say we thought the rest of the numbers were  
19      all realistic, but we accepted them.

20              Q       You accepted them for purposes of  
21      the --

22              A       For the valuation.

1 Q Okay. Let's look at Ms. Micka's  
2 response to you at 11:04 a.m. It's the second  
3 e-mail in this chain. Tell me if you're with  
4 me there.

5 A I am.

6 Q She writes back, "Under our base  
7 case" -- this is Comcast's case, right?

8 A Yep.

9 Q Under Comcast's case, "if Tennis  
10 Channel stays on Comcast's sports tier, the  
11 network has no value, negative DCF." That's  
12 negative discounted cash flow?

13 A That's correct.

14 Q And [REDACTED] million subs in 2012?

15 A Right.

16 Q Now, she, as I understand that, is  
17 actually assuming sub growth?

18 A Well, it looks to me like she's  
19 going back to the 2006 model, --

20 Q Correct.

21 A -- which is adding the [REDACTED]

22 [REDACTED] subscribers or not.

1           Q       It also assumed additional sub  
2 growth, didn't it?

3           A       Additional sub growth. Well, I'd  
4 have to go back and look at a model, but I  
5 believe we started with whatever sub growth  
6 the Tennis Channel provided. So if there was  
7 sub growth in there, it would have assumed  
8 that.

9           Q       And Tennis Channel did, in fact,  
10 assume some sub growth over time?

11          A       It makes sense. I just don't  
12 recall specifically what they did.

13          Q       So you were taking the amount of  
14 sub growth that Tennis Channel assumed.  
15 You're looking at carriage on Comcast sports  
16 tier. And you are saying -- or she is saying.  
17 I don't mean to say you. She is saying if  
18 Tennis Channel stays on Comcast's sports tier,  
19 accepting Tennis Channel's estimated natural  
20 sub growth, the network has no value, correct?

21          A       It's just like we spoke about  
22 earlier today where that was the only toggle

1 we made.

2 Q Yes, but the other toggle you made  
3 was you accepted Tennis Channel's projections  
4 of how they would otherwise grow outside of  
5 the context of the Comcast deal, correct?

6 A Yes, that's correct.

7 Q Now let's look at the next e-mail  
8 she sends you. Before we leave this middle  
9 e-mail, she says, "It's going to take a few  
10 minutes to adjust their model."

11 A Uh-huh.

12 Q And then as I understand it, at  
13 the top, she comes back to you again and says,  
14 "Now I have done the math using Tennis  
15 Channel's numbers," correct?

16 A Right.

17 Q So let's look at that top e-mail.  
18 Under TTC management's case, if Tennis Channel  
19 stays on Comcast's sports tier, the network  
20 has no value to [REDACTED] million and [REDACTED] million  
21 subs in 2012.

22 A Okay.

1           Q       So she's saying, even using Tennis  
2       Channel's numbers and assuming sub growth,  
3       they have no value to ■ million. Do you see  
4       that?

5                   JUDGE SIPPEL: That's subscribers,  
6       right?

7                   MR. SCHMIDT: Yes, sir.

8                   JUDGE SIPPEL: Subs, yes?

9                   MR. SCHMIDT: Yes, sir.

10                  THE WITNESS: Right. She's saying  
11       when she did that same toggle on the Tennis  
12       Channel's assumptions, even with their ad  
13       revenue, that this is what the valuation would  
14       be.

15                  BY MR. SCHMIDT:

16                Q       And even assuming that projections  
17       of otherwise natural growth in subscribers?

18                A       It's what it would appear, yes.

19                Q       And then she says further down --  
20       skip over a paragraph, if you would --  
21       "Basically they need to launch with us to have  
22       any value. Do you see that?

1           A       I do see that.

2           Q       Did you ever write back to Ms.  
3       Micka and say that you disagreed with any of  
4       her numbers or conclusions in this e-mail that  
5       you recall?

6           A       I don't recall.

7           Q       I have not seen such an e-mail.  
8       Do you have any recollection of one?

9           A       I have no recollection.

10          Q       In fact, you accepted her  
11       conclusions and passed them along to Mr.  
12       Shell, correct?

13          A       Yeah, I guess that's what we -- I  
14       don't recall. Did you show me another e-mail  
15       where I did that. I can't recall.

16          Q       I actually didn't. It was one  
17       that I think you were shown on direct. You  
18       may still have it in front of you if my memory  
19       is correct. It's exhibit 34. And if you  
20       don't have it, I can pass down a copy.

21          A       I have 34. This is 12-21. Right.  
22       This is where I am essentially doing the same



1        thing that Ann is telling me.

2                MR. SCHMIDT: Does Your Honor have  
3        exhibit 34 from this morning? I can --

4                JUDGE SIPPEL: I do.

5                MR. SCHMIDT: I can approach, if I  
6        may. It was one of the ones used on direct.  
7        Does anybody else need a copy? It's this one  
8        here, if it helps, Your Honor.

9                JUDGE SIPPEL: Okay. Thank you.  
10       I've got 33 and 34.

11               BY MR. SCHMIDT:

12               Q        So exhibit 34, as I understand it,  
13        follows in time after exhibit 33, correct?

14               A        Yes, it does.

15               Q        And exhibit 34 is you taking Ms.  
16        Micka's numbers and passing them along to Mr.  
17        Shell, Mr. Harvey, and Mr. Fein, correct?

18               A        Right. I was sharing with them  
19        likewise the difference when you toggle the  
20        [REDACTED] subscribers.

21               Q        Okay. And, in fact, you exactly  
22        adopt Ms. Micka's numbers in your e-mail to

1 Mr. Shell and the others, correct?

2 A Yes, I did.

3 Q And including her conclusion in  
4 your e-mail in the second asterisk under  
5 "Value" under "Comcast Assumptions"? Are you  
6 with me?

7 A I am.

8 Q "Value of TTC remains on Comcast  
9 sports tier. The company has no value." Did  
10 I read that correctly?

11 A You did read that correctly.

12 Q Now, would you expect from your  
13 knowledge of Tennis Channel and from the work  
14 that you did examining Tennis Channel that  
15 Tennis Channel would have an interest by  
16 virtue of the fact that it is the Tennis  
17 Channel and competing for U.S. Open rights?

18 A I would expect that Tennis Channel  
19 and other networks would have interest in the  
20 U.S. Open rights.

21 Q And at the time of this e-mail,  
22 Versus is considering competing for U.S. Open

1 rights, correct?

2 A We were talking about it. There  
3 were some who wanted to and some who did not.

4 Q And you were taking data that  
5 Tennis Channel has provided you under the MFN  
6 equity offer that it was required to make and  
7 sharing it with people at Versus who might be  
8 competing with Tennis Channel for these U.S.  
9 Open rights, correct?

10 A Can you repeat that question?

11 Q Yes, sir. You were taking data  
12 that Tennis Channel had given you under the  
13 MFN offer it was required to give Comcast,  
14 correct?

15 A Right.

16 Q And you're giving it to the people  
17 in Versus, Mr. Fein and Mr. Harvey and perhaps  
18 even Mr. Shell, who may be competing with  
19 Tennis Channel for U.S. Open rights, correct?

20 A It looks like I gave them -- if  
21 I'm reading my e-mail correctly, it looks like  
22 I gave them the output of a model under our

1       assumptions, which were our views and not the  
2       Tennis Channel's views. That's what it would  
3       look like to me.

4               Q       But you were drawing on Tennis  
5       Channel data and --

6               A       I drew some conclusions that -- I  
7       drew the conclusion based upon our model and  
8       our assumptions as we have been talking about  
9       different ways to do a deal that would work to  
10      the benefit of the Tennis Channel and to us.  
11      We were actually trying to get the Tennis  
12      Channel additional subs in this scenario.

13              Q       Okay. You were on the programming  
14      side and trying to get the Tennis Channel  
15      additional subs on the cable side?

16              A       As part of this scenario, right.

17              Q       And part of the information you  
18      shared with the folks at Versus, part of the  
19      Tennis Channel information you shared with the  
20      folks at Versus, was the value under the  
21      Tennis Channel assumptions, correct? Take a  
22      look at the bottom of --

1           A       Of which page?

2           Q       The first page, sir.

3           A       Exhibit 33?

4           Q       Exhibit 34, where it says, "Value  
5 Under Tennis Channel Assumptions."

6           A       "Value Under." Okay. Well,  
7 again, this -- let's be clear, right? This  
8 was our model, our valuation methodology, our  
9 numbers using their assumptions. And under  
10 our model, that's what we thought the Tennis  
11 Channel would -- we thought that's maybe what  
12 they would have thought. I don't know what  
13 they would have thought. And I don't know how  
14 their model would have run.

15                   But under our model, that's what  
16 you would have gotten.

17           Q       Did you ever ask them if you could  
18 share that data with folks at Versus?

19           A       Did I ever ask them if I could  
20 share what we thought the valuation would be?  
21 No, I did not.

22           Q       Based on that which they gave you

1       --

2           A       I did not.

3           Q       Okay. Are you aware that Mr.  
4       Shell -- I'm sorry. Are you aware that Versus  
5       later made a proposal to the U.S. Open to get  
6       these tennis rights?

7           A       I don't recall if we did or we  
8       didn't.

9           Q       Before we leave this document, at  
10      the top of this document, Mr. Shell writes  
11      back to you and says, "I would like to find a  
12      way to do this," correct?

13          A       That's right.

14          Q       Let's go on to the next document  
15      in the sequence.

16                   JUDGE SIPPEL: Again this is a  
17      December 2006 series of e-mails?

18                   MR. SCHMIDT: Yes, sir. And that  
19      is a perfect framing device because Mr. Shell  
20      writes, "Joe," -- this is exhibit 34 -- "why  
21      don't you work with Marc to put something  
22      together on this that we can sit down and

1 discuss with Matt after the holidays?"

2 BY MR. SCHMIDT:

3 Q So he's saying right before the  
4 holidays, can you put something together, and  
5 we'll meet again in the new year, correct?

6 A That is right.

7 Q And when we see "sit down with  
8 Matt," is that Matt Bond?

9 A That would be my assumption, yes.

10 Q Matt Bond on the --

11 A Cable side.

12 Q -- cable side?

13 A Uh-huh.

14 Q So he's suggesting that you put  
15 together something that he can then take to  
16 the cable side to see if this would work?

17 A We couldn't offer a Comcast cable  
18 sub. So for this to work, we would have to  
19 convince Matt to launch the Tennis Channel.

20 Q You have to work with the cable  
21 side to get this to work?

22 A Yes. If this were to work, you

1 would have to have both parties working it.

2 MR. SCHMIDT: Okay. May I  
3 approach, Your Honor, with another document?

4 JUDGE SIPPEL: You may. This is  
5 Tennis Channel exhibit 35, which is also in  
6 evidence.

7 JUDGE SIPPEL: Thirty-five again.

8 BY MR. SCHMIDT:

9 Q Do you have exhibit 35 in front of  
10 you?

11 A Yes, I do.

12 Q Okay. So exhibit 35, as I  
13 understand it, is first an e-mail from Mr.  
14 Shell that you are copied on and then a  
15 response from Mr. Burke. Is that correct?

16 A Yes, that's correct.

17 Q Okay. So let's look at Mr.  
18 Shell's e-mail first, if we could, dated  
19 January 2nd, 2007. So this is the follow-up  
20 after the holidays, correct?

21 A That's what it looks like.

22 Q He writes to Mr. Bond, Mr. Burke,



1 and copies you. And the subject is "Tennis  
2 Channel." He says, "A couple of months ago,  
3 we evaluated and rejected an offer from the  
4 Tennis Channel for equity in exchange for  
5 distribution." And that goes back to the 2006  
6 equity MFN offer that you worked on, correct?

7 A It would appear.

8 Q He says, "You may" -- you don't  
9 know of any other equity?

10 A I don't. I don't.

11 Q Okay. Nor do I, --

12 A Okay.

13 Q -- so we're on the same page.

14 A Okay.

15 Q "You may have recently read that  
16 the USTA just made an investment in the Tennis  
17 Channel. I found this interesting for two  
18 reasons. Number one, the USTA investment  
19 probably increases the chances that the  
20 channel will survive." Do you see that?

21 A I do.

22 Q Talking about the Tennis Channel

1       there, right?

2               A       That's what it would seem.

3               Q       And it seems as if he's saying  
4       there was a question before as to whether the  
5       channel would survive but with the USTA --  
6       that's the U.S. Tennis Association, right?

7               A       Yes.

8               Q       "Investing in them, there is a  
9       greater chance that they will survive,"  
10       correct?

11              A       It says, "Probably increases the  
12       chances."   That's correct.

13              Q       Then I take it there was some  
14       question before as to whether it would  
15       survive?

16              A       I don't know.

17              Q       You don't know?

18              A       This is Jeff's e-mail.

19              Q       And you're not aware of any such  
20       question?

21              A       I don't know how Jeff felt about  
22       it.

1           Q       Would you have a question as to  
2 whether a channel that has no value would  
3 survive?

4           A       I think the channel, like the  
5 Tennis Channel, could have got distribution to  
6 create value. So it could have very well  
7 survived if it got other distribution.

8           Q       But my question is a little  
9 different. If you valued a channel and  
10 included that it had no value, would you have  
11 questions about whether it might be viable as  
12 a long-term operation?

13          A       You would say at that point in  
14 time, it has no value. So it's a concern, but  
15 it doesn't mean that it can't survive.

16          Q       The second thing Mr. Shell found  
17 interesting was that the one tent pole event  
18 that makes the most sense for Versus is the  
19 U.S. Open. So this is again him raising the  
20 idea of securing U.S. Open content for Versus,  
21 correct?

22          A       That appears to be correct, yes.

1           Q       And he refers to the U.S. Open as  
2       a "tent pole event." We have heard from a  
3       Comcast expert who said that is like a marquee  
4       event. Do you agree with that?

5           A       It's a fair way to describe it,  
6       yeah.

7           Q       And then he says at the bottom, "I  
8       wonder whether it might make sense to  
9       reevaluate a scenario where we would get  
10      distribution to the Tennis Channel." And that  
11      would be distribution on the Comcast cable  
12      side, correct?

13          A       I would assume that that is what  
14      he means.

15          Q       In exchange for equity in U.S.  
16      Open rights for Versus. That would be  
17      programming rights back for the programming  
18      side, correct?

19          A       Right, similar to the construct I  
20      had talked about earlier today.

21          Q       Exactly. Exactly.

22          Q       And he's raising this to Mr. Bond

1 on the cable side, correct?

2 A That's correct.

3 Q And Mr. Burke, who oversees both  
4 the cable side and the programming side?

5 A That is correct.

6 Q And Mr. Burke's response back is  
7 to say, "I think this is an interesting idea,"  
8 correct?

9 A That's what it says.

10 Q Did you ever hear anyone at  
11 Comcast say that it would be inappropriate to  
12 do a deal like this or that it wasn't -- well,  
13 let me just leave it at that.

14 A I think, as I described earlier  
15 today, we were trying to find a deal that was  
16 beneficial to the Tennis Channel and to Versus  
17 and to the USTA. So I don't think people were  
18 thinking about it -- I don't know how people  
19 were thinking about it, but I think we were  
20 trying to find something that was positive for  
21 all the parties.

22 Q And the parties would be Comcast

1 cable, Comcast programming, Tennis Channel,  
2 and USTA?

3 A I wouldn't necessarily put Comcast  
4 Cable on the beneficiary side of that.

5 Q Okay. Because they would be  
6 paying more --

7 A They would be paying.

8 Q -- for extra subs?

9 A Right, but --

10 Q And they would be paying that so  
11 that Comcast programming could increase in  
12 value, correct?

13 A They would be paying that because  
14 it would have been beneficial to all three  
15 parties involved. Otherwise it wouldn't have  
16 worked.

17 Q Well, what is the benefit to  
18 Comcast cable from increased distribution?

19 A It may have made the ability to  
20 get the U.S. Open rights more palatable. I'm  
21 not sure we still would have done it because  
22 it was quite a loss for Versus. So I'm not

1 really sure that we would have done that  
2 anyhow.

3 Q But the deal that was being  
4 proposed to the cable side was that the cable  
5 side would pay extra --

6 A Right.

7 Q -- for increased distribution so  
8 that the programming side could get that  
9 valuable content?

10 A But the point is that --

11 Q Is that correct, sir?

12 A Not from my position because in my  
13 opinion, the ability to get the U.S. Open  
14 rights was a bad thing for Versus.

15 Q Okay.

16 A It was going to lose us over [REDACTED]  
17 million a year for 3 or 4 or 5 years straight.  
18 And it's not clear to me that that would have  
19 been beneficial to Versus. That was my  
20 opinion in the finance chair.

21 Q Mr. Burke never expressed that to  
22 you, did he?

1           A       I have no idea what -- I have no  
2       idea if he did or did not.

3           Q       Mr. Bond never expressed that  
4       view, did he?

5           A       I have no idea if he did or did  
6       not.

7           Q       Mr. Shell never expressed that  
8       view, did he?

9           A       I think Jeff was concerned about  
10      the cost.

11          Q       But he proposed the three-way deal  
12      with the equity exchange as a way of  
13      alleviating that cost, right?

14          A       As a possibility.

15          Q       And so that three-way exchange  
16      would involve Comcast cable giving  
17      distribution so that Comcast programming could  
18      get content, correct, if that would have gone  
19      through?

20                   JUDGE SIPPEL:   Would you repeat  
21      that?  Comcast cable --

22                   MR. SCHMIDT:   Yes.  Giving



1 distribution so that Comcast programming could  
2 get content had the deal gone ahead as  
3 proposed.

4 THE WITNESS: If you have seen the  
5 full bodies of these things, you would have  
6 been that we questioned whether or not we  
7 would have been able to do that.

8 And what we said was maybe there  
9 would be another way to get equity from Tennis  
10 Channel that we could give the USTA because it  
11 was unlikely that the Cable Division would  
12 give us that equity because there were two  
13 different sides of the business and that what  
14 we suggested is perhaps we could earn equity  
15 from the Tennis Channel by providing services  
16 to them.

17 So it was not clear that we would  
18 have done that transaction and there was  
19 discussion internally that we would not do  
20 that transaction, at least on our side.

21 MR. SCHMIDT: Okay.

22 BY MR. SCHMIDT:

1 Q On the programming side?

2 A That's who I would have been  
3 speaking to about it.

4 Q Well, I'm looking at this e-mail,  
5 exhibit 35. And let's look at the bottom of  
6 this e-mail. The scenario that is proposed  
7 here is we would give distribution to the  
8 Tennis Channel. And that would be  
9 distribution from Comcast cable, correct?

10 A That's correct.

11 Q In exchange for equity and U.S.  
12 Open rights for Versus. That's benefits on  
13 the programming side, correct?

14 A That is a -- there are some people  
15 who would have thought that that was a  
16 benefit.

17 Q Okay.

18 JUDGE SIPPEL: Some people thought  
19 what?

20 THE WITNESS: That that was a  
21 benefit for Versus. There are some people who  
22 would have thought it wasn't.